

EXHIBIT 261

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

*
THE STATE OF TEXAS, et al.,

Plaintiffs,
vs. Civil Action No. 4:20-CV-957-SDJ
GOOGLE LLC,
Defendant.
* *

VIDEOTAPED DEPOSITION
OF
JONATHAN VAN PATTEN

Taken at
1302 E. Highway 14
Pierre, South Dakota
April 29, 2024

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29
30 Also Present: Ashley Burg (Videographer)

1 Q Did you do anything else, though, to look into the
2 extent to which South Dakota agencies were using
3 display advertising technology?

4 A I did not.

5 Q You agree that the alleged harm to South Dakota's
6 general welfare and economy is based on publishers
7 and advertisers experiencing decreased revenue,
8 lower quality, and higher prices, right?

9 A Yes.

10 Q And can you describe: How widespread is that impact
11 to the State of South Dakota?

12 A Well, Google's presence is nationwide. Well, it's
13 worldwide, but it's -- the phenomenon is certainly
14 in this case nationwide and present in South Dakota.

15 So I could see that there were display
16 advertising in various publishers that I looked at.
17 Some had subscription requirements so I didn't go
18 any further, like the Argus Leader. But, like, the
19 TV stations are -- their websites are full of
20 display advertising that is, I believe, through
21 Google.

22 Q And why do you believe that's through Google?

23 A Because I'm not aware of others that are doing it.

24 Q You're not aware of any other display advertising
25 technology providers than Google?

1 A I am not aware of others.

2 Q Okay. So you're just assuming that those display

3 ads are somehow affiliated with Google?

4 A I -- we -- the state has alleged a monopolization.

5 And so if they don't have a hundred percent, they've

6 got monopoly power. There may be others, but I

7 don't know.

8 Q Okay.

9 Does South Dakota contend that publishers and

10 advertisers make up a substantial segment of the

11 South Dakota population?

12 A Define "substantial" for me, please.

13 Q What does substantial mean to you?

14 A I would say significant.

15 Q So does South Dakota contend that publishers and

16 advertisers make up a significant portion of South

17 Dakota's population?

18 A Yes.

19 Q And why is that?

20 A Because -- well, now I gotta -- I don't like the

21 question here. Here's the problem: You started

22 with -- you started with publishers and advertisers

23 and then asked if they were part of South Dakota's

24 population. And I don't like that because I think

25 they're part of the injured class whether they are

1 part of South Dakota's population.

2 In other words, I think the state's sovereignty
3 and parens patriae power covers actions within the
4 state's boundaries. So I wouldn't refer to South
5 Dakota -- yes, you could refer to a South Dakota
6 advertiser, but the advertiser doesn't have to be in
7 South Dakota; it has to advertise in South Dakota.

8 Same with the publishers.

9 So I think to the extent when you say the South
10 Dakota population, as I understand it, the economy
11 encompasses those who are acting in South Dakota.
12 And I think that publishers and advertisers are a
13 significant part of that economy.

14 Q Has the impact to South Dakota's general welfare and
15 economy been measured in any way -- in any way,
16 period?

17 A Could you restate that question? I just don't like
18 "in any way". I'm not sure what you mean.

19 Q I'm just asking sort of more globally, not with
20 reference to any either presuit, postsuit. Has
21 there been any effort to measure the impact to South
22 Dakota's general welfare and economy based on the
23 alleged misconduct of the --

24 MR. WILKERSON: Objection, form. Objection to
25 the extent any work product.

1 Just facts that aren't part of our strategy or
2 experts or anything with work product or mental
3 impressions.

4 A Well, not only work product, we expect there will be
5 a disclosure of measurements in the expert reports
6 which are forthcoming.

7 Q (By Mr. Aycock) So other than the expert reports
8 that will be issued in this case, are you aware of
9 any efforts to measure the impact to South Dakota's
10 general welfare and economy of the alleged
11 misconduct in this case?

12 A Well, because of the, I think I heard 6 million
13 documents produced by Google, there's evaluation of
14 those documents and -- by counsel and also then on
15 to the experts, and I believe that's where the
16 measurement is occurring.

17 Q Before the lawsuit was filed, did South Dakota
18 determine that there was an impact to the state's
19 general welfare and economy, though?

20 A Yes.

21 Q And how did the state make that determination?

22 A I think the evaluators brought their experience,
23 along with the information provided by the pre --
24 prelitigation investigation and determined that
25 there was harm to the general welfare of South

1 CERTIFICATE OF COURT REPORTER AND NOTARY PUBLIC

2 STATE OF SOUTH DAKOTA)

3 ss.

4 COUNTY OF PENNINGTON)

5 BE IT KNOWN that I, Cindy K. Pfingston, a
6 Registered Professional Reporter, took the deposition of:

7 JONATHAN VAN PATTEN,

8 pursuant to Notice and/or Stipulation; that I was
9 then and there a Notary Public in and for said
10 County and State; that I exercised the power of that
11 office in taking said deposition; that by virtue
12 thereof, I was then and there authorized to
13 administer an oath; that said witness, before
14 testifying, was duly sworn to testify to the truth, the
15 whole truth and nothing but the truth relative to
16 the cause specified therein;

17 That the said deposition having been
18 transcribed, was subsequently submitted by me to the said
19 witness, who thereupon read the said deposition and made
20 changes or corrections, if any, as appear noted therein,
21 along with the reason for each thereof, and that the said
22 deposition was thereupon subscribed to by the said
23 witness; that the examination was conducted at the time
24 and place therein specified on behalf of the respective
25 parties as therein indicated; that the foregoing and

1 attached 85 typewritten pages contain a full, true,
2 accurate and correct transcript of my stenotype notes, as
3 they purport to contain, then and there taken;

4 That I am neither attorney nor counsel
5 for, nor related to or employed by any of the parties to
6 the action in which said deposition is taken; and
7 further, that I am not a relative or employee of any
8 attorney or counsel employed by the parties hereto
9 or financially interested in the action.

10 I FURTHER CERTIFY that I have retained the
11 original copy of said deposition for the purpose of
12 filing with the taking attorney.

13 WITNESS MY HAND AND SEAL this 30th day
14 of April, 2024.

15

16

Cindy K. Pfingston
Registered Professional Reporter
and Notary Public
Pennington County,
Rapid City, South Dakota
My Commission expires: 2-4-2028

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